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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AVERY FONG
and TETSURO MOTOYAMA

Appeal 2009-006029
Application 09/440,645
Technology Center 2400

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and
JEAN R. HOMERE, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 5-10, 14-19, 23-28, and 32-36, which are all the claims remaining in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

Appellants' invention relates to a system for monitoring a user's usage of a target application. The target application includes a user interface with a plurality of commands which a user can select. The commands may be icons displayed on a computer screen which a user can point to with a mouse pointer and then click on. The system monitors and logs data of the user's usage of such interfaces. The logged data is stored in a map that maps key data to value data. The logged data can then be communicated by the sending unit by Internet mail to a designated location. Abstract.

Representative Claim

1. A system comprising:

an image forming device having direct network access and including an operation panel, the operation panel comprising a plurality of operations to be selected by a user;

a monitoring unit configured to monitor data of selecting of the plurality of operations of the operation panel by the user, including monitoring at least one of a sequence, timing, or frequency of selecting of the plurality of operations, and to generate a log of the monitored data, the log of the monitored data being in a form of a map mapping each of key data in a

key portion of the map to respective value data in a corresponding value data portion;

a communicating unit configured to receive a command to send information based on the log of the monitored data, and to send the information of the monitored data through the direct network access, and

wherein the monitoring unit and communicating unit are self-contained in the image forming device prior to any initial external communication connection by the communication unit, and the monitoring unit is configured to generate the log of the monitored data without any initial external communication connection by the communicating unit.

Examiner's Rejections

Claims 1, 7, 8, 10, 16, 17, 19, 25, 26, 28, 34, and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyachi (US 6,108,492) and Weiler (US 6,026,380).

Claims 5, 6, 9, 14, 15, 18, 23, 24, 27, 32, 33, and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyachi, Weiler, and Aikens (U.S. 5,414,494).

Claim Groupings

In view of Appellants' arguments in the Appeal Brief, we will decide the appeal on the basis of claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUES

Have Appellants shown that the combination of Miyachi and Weiler does not teach (1) “monitoring at least one of a sequence, timing, or frequency of selecting of the plurality of operations, and to generate a log of

the monitored [operations]”; (2) “the monitoring unit and communicating unit are self-contained in the image forming device”; and (3) “an image forming device having direct network access” as recited in independent claim 1?

FINDINGS OF FACT

Miyachi

1. Miyachi teaches a multifunction peripheral (MFP) that periodically stores its status information and a Host that periodically receives this status information and stores it in a database in the Host. Abstract.

2. The MFP preferably comprises a high output digital copier having a communications interface (preferably SCSI) and a hardware and software interface which allows the MFP to receive rasterized print jobs from the Host, manage the print jobs as well as its own copy jobs, and print the print jobs. The hardware includes a non-volatile data storage device (preferably ROM or EPROM) and a processor in which programs are stored and run, respectively, for controlling the functions of the MFP. The MFP also includes a non-volatile rewritable data storage device such as an NVRAM for storage of various information, include information regarding the status of operation of the MFP. Col. 5, ll. 8-26.

3. The Host preferably comprises a server such as a computer having an Intel processor and running Microsoft Windows NT. Col. 5, ll. 33-35.

4. The MFP’s processor, under programmed control, is responsible for monitoring the condition of the MFP and updating a status

information table stored in the non-volatile rewritable data storage device. Table 1 (shown in cols. 6-7) sets forth a list of the MFP status conditions which are preferably included in the status table. Col. 5, ll. 57- col. 6, ll. 3. The status information includes a document size selection and a paper size selection. Col. 7, ll. 28-35.

5. The Host obtains the multifunction peripheral status information from the MFP's non-volatile rewritable data storage device and stores this information in the database. The MFP's processor, under programmed control, also maintains in the database a history of this status information, including a log of significant operational events in the MFP. Furthermore, the Host also preferably monitors and stores in the database information regarding the number of users who have submitted print and fax jobs, the number of print and fax jobs submitted per user, the average total print time for print and fax jobs over a selected time frame, version information of Host software, and information concerning the Host's "health," status, resource allocation and usage statistics. Col. 9, ll. 10-25.

Weiler

6. Weiler teaches a photocopy count system and method which records usage information for accounting and billing purposes. As each photocopy event occurs, the copy signal is detected by the central control computer. When copying is completed, the copy count and associated billing information is stored at the control computer for later accounting and billing use. Abstract.

7. If the job type key pressed is "copies," each copy event is recorded in the event log table. If the job type key pressed is "bind," then the number of binding operations performed is obtained. Following the

recording of the copy events or any of the other events, and detection of a “finish” key pressed on the keyboard (or an expiration of a predetermined period of time since last keyboard input or counting activity) the event log table is updated and there is a return to the main processing loop for the recording of the next event. Col. 4, ll. 33-47.

PRINCIPLES OF LAW

Claim Interpretation

During examination, claims are to be given their broadest reasonable interpretation consistent with the specification, and the language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Amer. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted). The Office must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. *Id.* (citations omitted).

Obviousness

“What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 419 (2007). “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416.

ANALYSIS

Appellants contend that neither Miyachi nor Weiler teaches or suggests monitoring of operations on an operation panel of an image

forming device that a user selects. App. Br. 11. In particular, Appellants contend that Miyachi does not disclose monitoring which button switches are selected by a user. App. Br. 12. However, claim 1 does not recite “monitoring buttons” and Appellants have provided no basis for reading this term into claim 1.

Appellants contend that Table 1 of Miyachi contains status information such as document size selection and paper size selection. However, according to Appellants, Miyachi does not monitor the sequence, timing, or frequency of selections of operations selected by a user. App. Br. 12-13; Reply Br. 2-3. Miyachi teaches monitoring and storing information, such as a user’s selection of document size and paper size, in a database to maintain a history log of significant operational events. Miyachi also teaches monitoring information such as the number of print and fax jobs submitted per user. FF 4-5. The phrase “monitoring at least one of a ... timing ... of selecting of the plurality of operations, and to generate a log of the monitored data” encompasses the log of significant operational events that maintains the history, or “timing,” of status information such as document and paper size selections, as well as the number of print jobs submitted per user, as taught by Miyachi.

Appellants contend that Weiler does not teach or suggest monitoring and keeping a log of at least one of a sequence, timing, or frequency of selecting of the plurality of operations. In particular, Appellants contend that the log taught by Weiler does not indicate what buttons on an operation panel have been selected. App. Br. 13. However, claim 1 does not recite “indicate what buttons have been selected,” and Appellants have provided no basis for reading this into claim 1.

Appellants further contend that Weiler discloses monitoring copy events. However, according to Appellants, a copy event does not necessarily correspond to which operation on a panel a user has selected. Appellants describe claim 1 as if it requires a log that records the pressing of a copy button ten times in a first way, but records setting a number of copies at ten, then pressing the copy button once, in a second way. App. Br. 13-14; Reply Br. 4. However, claim 1 does not require that the log of the “plurality of operations” that are monitored must include information about a number of times a copy button is pressed, and Appellants have provided no basis for reading such a limitation into claim 1.

Appellants contend that the logged copy event in Weiler is not a user input on an interface. Reply Br. 3-4. Weiler teaches that if a user presses a “copies” job type key, then each copy event is recorded in an event log table. If a user presses a “bind” job type key, then the number of binding operations that are performed is recorded. The phrase “monitoring at least one of a ... frequency of selecting of the plurality of operations, and to generate a log of the monitored data” encompasses the “log” of the number, or “frequency,” of copies and binding “operations” as taught by Weiler. FF 7.

Appellants contend that neither Miyachi nor Weiler teaches a monitoring unit and communicating unit that are self contained in the image forming device as recited in claim 1. App. Br. 14; Reply Br. 4-5. In particular, Appellants contend that because Miyachi does not disclose the monitoring unit as recited in claim 1, the reference cannot disclose the monitoring unit and communicating unit contained in the image forming device. App. Br. 15.

Miyachi teaches a multifunction peripheral (MFP) such as a digital copier that includes a processor and a nonvolatile memory that maintains a log of status information and significant operational events. FF 1-2, 4-5. Appellants have provided no evidence tending to show that storing a log of significant operational events in the nonvolatile memory of Miyachi was uniquely challenging or difficult for one of ordinary skill in the art. Miyachi also teaches that the MFP has a communications interface that allows the MFP to communicate with a server. FF 2. We therefore find that Miyachi teaches “the monitoring unit and the communicating unit are self-contained in the image forming device” within the meaning of claim 1.

Appellants contend that Miyachi does not disclose “direct network access” as recited in claim 1. In particular, Appellants contend that Miyachi shows the MFP connected to a host. App. Br. 16-17; Reply Br. 5. However, according to Appellants, this connection is not direct network access. In fact, Miyachi discloses that the MFP is connected to a host which is a server. FF 2. The server is part of network 100 as shown in Figure 1 of Miyachi. When accessing the server, which is part of the network, the MFP is directly accessing “the network.” The term “direct network access” therefore encompasses an image forming device connected to a server on the network. Appellants have not provided evidence or persuasive argument to distinguish the direct connection between the MFP and the server as taught by Miyachi from the “direct network access” as recited in claim 1.

We sustain the rejection of claim 1 under 35 U.S.C. § 103. Appellants have not presented arguments for separate patentability of the remaining claims. Therefore, the remaining claims fall with claim 1.

CONCLUSIONS OF LAW

(1) Appellants have not shown that the combination of Miyachi and Weiler does not teach “monitoring at least one of a sequence, timing, or frequency of selecting of the plurality of operations, and to generate a log of the monitored [operations]” as recited in claim 1.

(2) Appellants have not shown that the combination of Miyachi and Weiler does not teach “the monitoring unit and communicating unit are self-contained in the image forming device” as recited in claim 1.

(3) Appellants have not shown that the combination of Miyachi and Weiler does not teach “an image forming device having direct network access” as recited in claim 1.

DECISION

The rejection of claims 1, 7, 8, 10, 16, 17, 19, 25, 26, 28, 34, and 35 under 35 U.S.C. § 103(a) as being unpatentable over Miyachi and Weiler is affirmed.

The rejection of claims 5, 6, 9, 14, 15, 18, 23, 24, 27, 32, 33, and 36 under 35 U.S.C. § 103(a) as being unpatentable over Miyachi, Weiler, and Aikens is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED

Appeal 2009-006029
Application 09/440,645

msc

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